

TO: Commissioner of Patents P.O. Box 1450 Alexandria, VA 22313-1450 or Commissioner of Trademarks P.O. Box 1451 Alexandria, VA 22313-1451	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Colorado on the following

Patents

DOCKET NO.	DATE FILED	U.S. DISTRICT COURT
08-cv-02212-EWN-MEH	10/10/2008	FOR THE DISTRICT OF COLORADO
PLAINTIFF New Tech Machinery Corp.		DEFENDANT Englert, Inc.
PATENT OR	DATE OF PATENT	HOLDER OF PATENT OR TRADEMARK
1 5,425,259		Please see copy of Complaint attached hereto
2 6,772,616		
3 6,981,397		
4		
5		

In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY	
	<input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading	
PATENT OR	DATE OF PATENT	HOLDER OF PATENT OR TRADEMARK
1		
2		
3		
4		
5		

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK GREGORY C. LANGHAM	(BY) DEPUTY CLERK	DATE
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Copy 1—Upon initiation of action, mail this copy to Commissioner Copy 3—Upon termination of action, mail this copy to
Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner Copy 4—Case file copy

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 98-cv-02212-EWN-MEH

NEW TECH MACHINERY CORP., a Colorado corporation,

Plaintiff,

vs.

ENGLERT, INC., a New Jersey corporation,

Defendant.

COMPLAINT FOR DECLARATORY AND OTHER RELIEF

Plaintiff New Tech Machinery Corp. ("New Tech"), by and through its undersigned attorneys, for its Complaint for declaratory relief against Defendant Englert, Inc. ("Englert" or "Defendant") states as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff New Tech is a Colorado corporation with its principal place of business in Denver, Colorado.

2. Upon information and belief, Defendant Englert is a New Jersey corporation with its principal place of business in Perth Amboy, New Jersey. Englert has a regional office located at 1221 East 56th Avenue in Denver, Colorado. Upon information and belief, Englert makes, sells, and offers for sale roof panel machines and gutter forming machines throughout the United States and in the District of Colorado.

3. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201 and 2202, as this action arises under the patent laws, Title 35, U.S.C., and is an action for a declaratory judgment.

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1331.

ALLEGATIONS AND CLAIM FOR RELIEF

5. New Tech makes and sells roof panel machines and gutter forming machines. New Tech owns various patents covering the products it sells, including U.S. Patent Nos. 5,425,259 and 6,772,616.

6. Upon information and belief, Englert is the assignee of U.S. Patent No. 6,981,397 B2 (the “‘397 Patent”). The ‘397 Patent is entitled “Roll Forming Machine with Improved Adjustability and Profile Changing Capability,” and is attached as **Exhibit 1**.

7. By letter dated September 19, 2008, Englert (through its counsel) stated its belief that New Tech’s “SSQ MultiPro” roof panel machine infringes the ‘397 Patent. The letter demanded that New Tech’s attorney respond to the letter and explain New Tech’s noninfringement position. The letter further indicated that Englert “will consider all the legal remedies available to it.” A copy of Englert’s letter is attached as **Exhibit 2**.

8. Contrary to Englert’s contention, the SSQ MultiPro roof panel machine does not infringe the ‘397 Patent.

9. Englert’s letter has created substantial uncertainty in that it has placed New Tech in the untenable position of either manufacturing and selling the SSQ MultiPro roof panel machine that Englert alleges infringes the ‘397 Patent, or abandoning the manufacture and sale of the roof panel machine, even though New Tech believes it does not infringe.

10. As a result of Englert's actions, an actual and justiciable controversy exists between New Tech and Englert concerning whether New Tech's SSQ MultiPro roof panel machine infringes any valid claim of the '397 Patent.

PRAYER FOR RELIEF

Wherefore, New Tech prays for this Court to enter judgment in its favor:

- a. Declaring that New Tech does not infringe any valid and enforceable claim of the '397 Patent;
- b. Awarding New Tech its attorneys' fees and costs; and
- c. Awarding New Tech such other and further relief as the Court may deem proper.

Dated October 10, 2008.

Respectfully submitted,

s/ Lee F. Johnston _____

Lee F. Johnston

s/ Michael R. Henson _____

Michael R. Henson

s/ Conor F. Farley _____

Conor F. Farley

HOLLAND & HART LLP
555 Seventeenth Street, Suite 3200
Denver, Colorado 80202
Phone: (303) 295-8000
Fax: (303) 295-8261
ljohnston@hollandhart.com
mrhenson@hollandhart.com
cfarley@hollandhart.com

**ATTORNEYS FOR PLAINTIFF
NEW TECH MACHINERY CORP.**

Address of Plaintiff:

1300 40th St.
Denver, Colorado 80205
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